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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,536	12/09/2003	Richard Gady	60,130-1950; 03MRA0383	4559
26096	7590	03/02/2005	EXAMINER	
CARLSON, GASKEY & OLDS, P.C. 400 WEST MAPLE ROAD SUITE 350 BIRMINGHAM, MI 48009			WRIGHT, DIRK	
			ART UNIT	PAPER NUMBER
			3681	

DATE MAILED: 03/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

*R*

# Office Action Summary

Application No.

10/731,536

Applicant(s)

GADY ET AL.

Examiner

Dirk Wright

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14-20 is/are rejected.
- 7) ☒ Claim(s) 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

*Claims Rejected*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, 12 and 16, 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Schmidt '588. Schmidt shows in Figure 6 a planetary gearing 314 and a differential 374 driven by a first power source 322, and a second power source 324. The first power source drives the sun gear 334 at a reduction ratio that is greater than the ratio that the second power source 324 drives the ring gear 332. The output is taken from carrier 338. The drive has multiple modes including at least one where either the first or the second source is the sole power source, and others where both sources power the differential at a variable speed.

Claims 1-6, 12, 17 and 20 are rejected under 35 U.S.C. 102 (b) as being anticipated by Lehongre '175. Lehongre shows a first drive source 16 driving a member C2 of a planetary gearing at a reduction ratio that is lower than that which a second drive source 14 drives another member P2 of the planetary gearing at a higher ratio such that a variable speed ratio is achieved, the carrier PS2 of the planetary gearing driving a differential 20. The drive has multiple modes including ones including a sole source of power, and another one where the combined output of both to produce a variable speed ratio.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt '588 or Lehongre 175. Neither Schmidt nor Lehongre show both first and second drive sources as electric or hydraulic motors. The both show at least one electric motor though, and it would have been obvious to one of ordinary skill in this art to make both motors either hydraulic or electric because the type of drive source used doesn't really matter to the functionality of the drive system as a whole.

Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt '588. Schmidt shows a schematic differential 374 driven by a shaft 318 and 339 connected to a carrier 338. Schmidt doesn't show a ring and pinion gear for his differential 374, but it would have been obvious to one of ordinary skill in this art to do so since this is the standard practice in this art.

### ***Subject Matter Allowable***

Claim 13 is objected to because it contains allowable subject matter yet it depends from a rejected claim. This claim would be allowable if it were re-written in independent form including all of the limitations of the independent claim and any intervening claims. The subject matter is allowable because the prior art does not anticipate the invention as recited in claim 12 with the further limitation of a planet carrier formed as part of a differential housing.

### ***Conclusion***

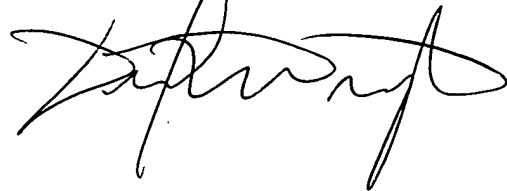
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dirk Wright whose telephone number is 703-308-2160. The examiner can normally be reached on Monday through Friday, 8AM-4:30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on 703-308-0830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dirk Wright  
Primary Examiner  
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A handwritten signature in black ink, appearing to read 'Dirk Wright', with a stylized, cursive script.

DW  
Saturday, February 26, 2005